

Arizona State Board of Acupuncture Examiners

REGULAR MEETING

June 23, 2004

BOARD MEMBERS PRESENT:

Martha Grout, M.D., Secretary
Yong Deng, L.Ac., Professional Member
Joan Heskett, Public Member
Syretta McNeal, Public Member
Dana Price, L. Ac. Professional Member

BOARD MEMBERS ABSENT:

Deborah Malone, L.Ac.
Don Nichols

ATTORNEY GENERAL REPRESENTATIVE:

Dawn Lee, Assistant Attorney General
Victoria Mangiapane, Office of the Solicitor General

ADMINISTRATIVE STAFF:

Christine Springer, Board Assistant

I. Call To Order

Acting Chairman, Martha Grout called the meeting to order at 1:00 p.m.

II. Review, discuss, and vote – Regular Meeting Minutes

Discussion of the minutes from the regular meeting held May 26, 2004 was deferred to the next regular meeting.

III. Administrative Hearing – A-2004-06

Victoria Mangiapane, Office of the Solicitor General, made a general statement regarding procedural matters. She indicated the Board must consider Mr. Kim's motion to continue and determine if the State, represented by Assistant Attorney General Dawn Lee would object to a continuance. Mrs. Price noted for the record, that Mr. Kim's motion to continue indicated he would be attending an acupuncture seminar and he had requested the hearing be continued to September, 2004.

Assistant Attorney General Dawn Lee stated that the State did not object to the motion for a continuance.

Ms. McNeal stated that she did not object to a continuance. Dr. Deng indicated that although Mr. Kim's motion to continue indicated he would be attending an acupuncture seminar, additional seminar hours would not meet the qualifications for licensure prescribed by A.R.S. § 32-3924. Solicitor General Mangiapane indicated the Board must either grant or deny Mr. Kim's motion to continue.

Mrs. Price stated that a notice of hearing had been sent to Mr. Kim on May 21, 2004. On June 21, 2004 Mr. Kim filed his written motion to continue noting in his request that he would be attending an acupuncture seminar. Mrs. Price indicated that she did not believe the reason noted in Mr. Kim's motion was sufficient to grant the continuance. Mrs. Price made a motion to deny the request for continuance. Mrs. Heskett seconded the motion that passed unanimously.

The State Attorney General, Dawn Lee recommended that the Board dismiss Mr. Kim's appeal, as he is not present to sustain his burden.

Mrs. Heskett made a motion dismissing Mr. Kim's appeal requesting a hearing and sustaining the Board's original denial of Mr. Kim's license application. Motion seconded by Mrs. Price. Motion passed unanimously 5 - 0.

IV. Complaints/Investigations – Discussion and Vote

A. Oral Interview Investigation No. L-2004-04 D.A. vs. Guoliang Cao, L.Ac.
Mr. Cao was present and addressed the Board. He explained the treatment history of D.A. and addressed some of the specific concerns noted in the complaint. Mr. Cao stated that his questions and statements made to D.A. during the treatment sessions were tailored to encourage the patient to seek companionship that would alleviate some of the outward symptoms that were presenting in the body as pain and itching and which were, in his medical understanding, specifically related to an unhappy emotional state. Ms. McNeal inquired whether Mr. Cao had ever had similar complaints and what he intended to change to prevent future occurrences. Mr. Cao responded that, in the future, he would be very sensitive to possible misinterpretations that could arise from the discussion of a patient's sexual history. He explained that while it was not his intention, D.A. may have misinterpreted his conversation relating his own experiences with matters of the heart and led her to file the complaint. *At 2:00 p.m., Mrs. Heskett made a motion to adjourn to executive session for legal advice.* Motion seconded by Ms. McNeal and passed unanimously. The Board returned to regular session at 2:05 p.m.

Mrs. Heskett noted that Mr. Cao's manner may have frightened D.A. and that, in the future, he must take great care not to relate information that may be misconstrued as too personal. Dr. Deng stated that in the United States, the personal boundaries with patients are different. Mr. Cao must make every effort to respect the cultural differences and respect those perceived boundaries. What may be easily discussed in China is different in the United States where discussions of one's personal life are not so open. Dr. Grout related that in her practice, she asks a question and allows the patient to respond at their own comfort level. She does not relate her own personal experience in an effort to draw out further remarks. Ms. McNeal encouraged Mr. Cao to be very careful of how he questions a patient and allow the patient the opportunity to work through their own responses. Mrs. Heskett made a motion to issue a non-disciplinary letter of concern. While there is insufficient evidence of actual unprofessional

conduct there is concern that Mr. Cao may have inadvertently frightened D.A. and by his comments led her to believe his conduct was inappropriate. Dr. Grout seconded the motion that passed unanimously. Roll call: 5 – 0. Mr. Cao stated that he appreciated the board members suggestions and comments and that in the future he would be more sensitive to the possibility that a patient might misconstrue comments he may offer.

***B. Previous Matters – Status Update Consent Agreement
Investigation No. L-2002-05 C.G. vs. James Reece***

Mrs. Springer stated that a copy of the signed consent agreement with Mr. Reece was provided to the board as an update to allow them to note the final agreement. No further discussion was initiated.

***C. Initial Review Investigation No. L-2004-03 J.B. vs. Debra Pierce –
Auricular Acupuncturist***

The Board discussed receipt of the complaint. Dr. Grout noted two issues: 1) did Ms. Pierce violate the NADA protocol for auricular acupuncturists and 2) does the information show that she needled extra points on the patient's ear other than the accepted five acupuncture points? Assistant Attorney General Dawn Lee directed the Board's attention to consideration of A.R.S. 32-3901 et.seq. and whether Ms. Pierce's actions specifically violated acupuncture laws. Mrs. Price made a motion to dismiss the complaint noting that the information did not show a clear violation of the statutes. Motion seconded by Dr. Deng and passed unanimously. Roll call 5-0. Dr. Grout requested that consideration of a definition of auricular acupuncture protocols be a topic of discussion for a future meeting of the legislative committee.

**V. Consideration of Candidates for Licensure – Discussion and Vote
*Acupuncture Licenses***

The Board discussed an application filed by Cecelia Fernandes. They noted her disclosure of an action taken ten years ago relating to her supervision of a nurse aide at a health care facility where she had been employed. Mrs. Price made a motion approving the application. Motion seconded by Dr. Deng and passed unanimously.

Mr. Jerry Campbell's application was discussed. Mr. Campbell's transcripts from Ruseto College indicate insufficient clinic hours (510 hours) rather than the required 800 hours. In addition, the transcript does not indicate the school is ACAOM accredited. Consideration of the application was deferred and Mrs. Springer was directed to send a substantive request for additional information to Mr. Campbell and request additional information regarding the accreditation status of Ruseto College and to ask Mr. Campbell to provide additional evidence of a sufficient number of clinic hours to meet the requirements of A.R.S. 32-3924(2). Assistant Attorney General Dawn Lee discussed time frames and indicated that Mr. Campbell's agreement to an extension of the time frames

would allow him an opportunity to timely respond to the Board's request for additional information.

Meriam Weber's application was discussed. Following review of her transcript and the additional clinical training hours documented by a preceptor in the State of Oregon, Ms. McNeal made a motion to accept the application. Dr. Deng seconded the motion that passed unanimously.

VI. Other Business

1. Discussion of the correspondence received from Paloma Blaire was deferred to a future meeting.
2. Mrs. Springer stated that projected revenues of 82,800 appeared to be on target. Collected revenue as of May 31, 2004 stood at 81,204. The Board has utilized 61.29% of the total appropriation of 75,300. She reminded the board that a supplemental appropriation had been approved by the legislature, which brought the total 04 appropriation to 83,300.
3. Mr. Imig's employment contract was noted by the Board. Mrs. Springer indicated it was Mrs. Malone's intention that all board members be informed of the final contract reached with Mr. Imig.

VII. Call to the Public

No public members present.

VIII. Future Agenda Items

None.

IX. ADJOURNMENT

Dr. Grout moved to adjourn the meeting at 3:15 p.m. Mrs. Heskett seconded the motion that passed unanimously. The **next meeting** of the Board will convene at the Occupational Licensing Building, 1400 W. Washington, Basement Conference Room B-1, Phoenix, Arizona, 1:00 PM, on **July 28, 2004**

Respectfully Submitted,

Christine Springer
Board Assistant